

# EXHIBIT

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STATE OF MICHIGAN  
BUREAU OF ELECTIONS  
LANSING

**MEMORANDUM**

DATE: August 26, 2020  
TO: County Clerks  
FROM: Michigan Department of State, Bureau of Elections  
SUBJECT: Recounts; Release of Voting Equipment

Please be advised of the following:

**STATE RECOUNTS:** The Board of State Canvassers completed its canvass of the August 4, 2020 primary election on Monday, August 24, 2020. The deadline for filing a petition for a recount with the Secretary of State elapsed today. No recounts were filed with us.

**CONDUCT OF LOCAL RECOUNTS:** Recounts requested for local offices and ballot questions may proceed at this time.

**DEADLINE FOR COMPLETION OF RECOUNTS:** Michigan election law, MCL 168.875, provides that "[a]ll recounts shall be completed for a primary election not later than the twentieth day ... immediately following the last day for filing counter petitions or the first day that recounts may lawfully begin."

Since absent voter ballots must be available for the November 3, 2020 general election no later than September 19, 2020, all county canvassing boards are urged to complete any requested recounts no later than **Friday, September 4, 2020**.

**RELEASE OF VOTING EQUIPMENT:** The security of ballots and election equipment is released as follows:

***Ballots, programs and related materials:*** The security of all optical scan ballots, programs, test decks, accuracy test results, edit listings and any other related materials is released under the Rules for Electronic Voting Systems, R 168.790(18), as of September 23, 2020 except in those areas where local recounts extend beyond September 23, 2020. Optical scan ballots and materials involved in local recounts which extend beyond September 23 can be released by the Board of County Canvassers upon the successful completion of the recount.

***E-Pollbook laptops and flash drives:*** The EPB software and associated files must be deleted from all devices by the seventh calendar day following the final canvass and certification of the election (August 31, 2020) unless a petition for recount has been filed and the recount has not been completed or the deletion of the data has been stayed by an order of the court or the Secretary of State.

**“EARLY RELEASE” OPTION IF NO STATE OR LOCAL RECOUNTS ARE PENDING:** Michigan election law, MCL 168.799a(4), provides the following:

“Unless a petition for recount has been filed and the recount has not been completed, ballots, ballot labels, programs, test results, and other sealed materials may be released from their original seal after 7 days following the final determination of the board of canvassers with respect to the election at which the ballots were voted. However, the released materials shall be secured and preserved for the time period required by this act and the rules promulgated by the secretary of state.”

A jurisdiction that wishes to take advantage of the above retention procedures to free electronic voting equipment for the upcoming November 3 general election may break the seals on the materials any time after August 31, 2020 and then seal the materials in an approved ballot container through September 23, 2020. Programs contained on memory devices may be downloaded to other media during the transfer of the materials to free the memory devices for the upcoming election.

**FEDERAL BALLOT RETENTION REQUIREMENT:** If the office of President, U.S. Senator or U.S. Representative in Congress appears on the ballot (the offices of U.S. Senator and U.S. Representative in Congress appeared on the August 4 primary ballot), federal law requires that all documents relating to the election -- including optical scan ballots and the programs used to tabulate optical scan ballots -- be retained for 22 months. To comply with the requirement, the Bureau of Elections recommends that optical scan ballots and the programs relating to federal elections be stored in sealed ballot bags in a secure place during the 22-month retention period. The documents subject to the federal retention requirement must not be transferred to ballot bags for extended retention until after they are released under Michigan election law as detailed in this memo.

**REMINDER - RECOUNT FEE SCHEDULE AND PETITION HAVE CHANGED:** The recount fee schedule and petition have changed in recent years, both of which can be found in the Appendix of the [Board of County Canvassers Manual](#). The petition for recount must allege that the petitioner possesses a good-faith belief that he or she would have had a reasonable chance of winning the election, and the per-precinct fee is now either \$25.00, \$125.00, or \$250.00 depending on the vote differential.

### **Questions?**

If you have any questions, please contact us via email at [elections@michigan.gov](mailto:elections@michigan.gov), or by phone at (517) 335-3234 or (800) 292-5973.